Notice of Allowability	Application No.	Applicant(s)	
	10/784,347	RESTAINO, LAWRENCE	
	Examiner	Art Unit	
	Rosanne Kosson	1653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *Applicants' approval of Examiner's amendment on January 11, 2006*.

2. ☒ The allowed claim(s) is/are *1, 2, 4-7, 9-13 and 15*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

1. The application has been amended as follows.

The claims are amended as follows.

1. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria, said other bacteria releasing the enzyme beta-galactosidase on exposure to ~~reacting with~~ a substrate in the plating medium ~~metabolic source~~, comprising a mixture of (1) a carbohydrate that is ~~capable of being~~ a metabolic source for Salmonella bacteria ~~and supporting colonies of Salmonella but incapable of being a metabolic source for said other bacteria~~, the metabolic reaction between Salmonella bacteria and the carbohydrate releasing acid into a ~~the~~ portion of the medium of the reaction, (2) a pH indicator dye that changes the color of said portion of the plating medium to a first color different from the color of the medium responsive to a change in the pH of said portion of the medium, (3) a first substrate that does not react with Salmonella bacteria but reacts with ~~to~~ the enzyme beta-galactosidase to produce a second color in the medium where it is acted upon by the enzyme beta-galactosidase, the second color contrasting with the first color and the color of the medium, (4) a second substrate that does not react with Salmonella bacteria but reacts with ~~to~~ the enzyme beta-galactosidase to produce said second color in the medium where it is acted upon by the enzyme beta-galactosidase ~~of~~, the first substrate reacting with ~~to~~ the ~~presence of the~~ enzyme beta-galactosidase in a significantly shorter time than the second substrate ~~reacts to said enzyme~~, whereby colonies of said other bacteria contain the second color, and (5) an ingredient for thickening the mixture in sufficient quantity to solidify the mixture, wherein the first substrate and the second substrate are selected from the group

consisting of 5-bromo-4-chloro-3-indoxyl-beta-D-galactopyranoside, 5-bromo-6-chloro-3-indoxyl-beta-D-galactopyranoside, 3-indoxyl-beta-D-galactopyranoside, 6-chloro-3-indoxyl-beta-D-galactopyranoside, 4-nitrophenyl-beta-D-galactopyranoside, 2-nitrophenyl-beta-D-galactopyranoside, 5-iodo-3-indoxyl-beta-D-galactopyranoside, 4-methylumbelliferyl-beta-D-galactopyranoside and N-methylindoxyl-beta-D-galactopyranoside.

2. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium of claim 1, wherein the carbohydrate is one or more members of the group consisting of 2-d~~D~~eoxy-D-ribose, xylose, mannitol, dulcitol, sorbitol, L-rhamnose and D-arabitol.

3. (canceled)

4. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium of claim 1, wherein the first substrate is 5-bromo-4-chloro-3-indoxyl-beta-D-galactopyranoside, and the second substrate is 3-indoxyl-beta-D-galactopyranoside.

5. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium ~~mixture~~ of claim 2 in combination with an inhibitor selected from ~~of~~ the group consisting of bile salt, bile salt #3, tellurite, sodium novobiocin and cefsulodin.

6. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium of claim 1 in combination with a chromogenic substrate enhancer.

7. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium of claim 6, wherein the chromogenic substrate enhancer consists of at least one member of the group consisting of isopropyl-beta-D-thiogalactopyranoside, l-o-methyl-beta-D-galactopyranoside, methyl-beta-D-thiogalactopyranoside, and methyl-beta-D-thiogalactopyranoside.

8. (canceled)

9. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other bacteria comprising the medium ~~mixture~~ of claim 1, wherein the carbohydrate is 2-d~~D~~eoxy-D-ribose and the first and second chromogenic substrates are 5-bromo-4-chloro-3-indoxyl-beta-D-galactopyranoside and 3-indoxyl-beta-D-, galactopyranoside, respectively.

10. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella from a sample containing Salmonella and a plurality of other bacteria that release the enzyme beta-galactosidase upon exposure to ~~reacting with~~ a mixture ~~metabolic source~~ consisting essentially of ~~a mixture of~~ (1) at least one carbohydrate that is metabolizable by Salmonella and is of the group consisting of 2-d~~D~~eoxy-D-ribose, xylose, mannitol, dulcitol, sorbitol, L-rhamnose and D-arabitol, the metabolic reaction between the carbohydrate and Salmonella bacteria releasing acid into a ~~the~~ portion of the medium of the reaction, (2) a pH indicator dye that changes the color of said portion of the plating medium to a first color responsive to a change in the pH of the medium, (3) a first chromogenic substrate that does not react with Salmonella bacteria and changes the color of the medium to a second color responsive to the presence of the beta-galactosidase enzyme, (4) a second chromogenic substrate that does not react with ~~to~~ Salmonella bacteria and that changes the color of the medium to approximately the same second color, and that is responsive to the presence of the beta-galactosidase enzyme, the first substrate reacting with ~~to the presence of~~ the beta-galactosidase enzyme more quickly than the second substrate, and the first and second colors contrasting with each other and with the

color of the medium, wherein the first substrate and the second substrate are selected from ~~members of~~ the group consisting of 5-bromo-4-chloro-3-indoxyl-beta-D-galactopyranoside, 5-bromo-6-chloro-3-indoxyl-beta-D-galactopyranoside, 3-indoxyl-beta-D-galactopyranoside, 6-chloro-3-indoxyl-beta-D-galactopyranoside, 4-nitrophenyl-beta-D-galactopyranoside, 2-nitrophenyl-beta-D-galactopyranoside, 5-iodo-3-indoxyl-beta-D-galactopyranoside, 4-methylumbelliferyl-beta-D-galactopyranoside and N-methylindoxyl-beta-D-galactopyranoside, and (5) an ingredient for thickening the mixture in sufficient quantity to solidify the mixture.

11. (currently amended) A differential ~~An isolation~~ plating medium for the detection ~~identification~~ of Salmonella bacteria from a sample likely to contain Salmonella bacteria and other ~~a plurality of different~~ bacteria comprising the medium ~~mixture~~ of claim 10, wherein the ingredient for thickening the mixture is agar.

12. (currently amended) A ~~The~~ method of detecting the presence of Salmonella in a sample that is likely to contain Salmonella bacteria and other bacteria, ~~said other bacteria releasing the enzyme beta-galactosidase on reacting with a metabolic source~~, comprising the steps of inoculating the plating medium of claim 1 with the sample ~~an essentially solid plating medium with the test sample, wherein said plating medium comprises a mixture of 1) a carbohydrate capable of being a metabolic source for Salmonella bacteria and supporting colonies of Salmonella but incapable of being a metabolic source for said other bacteria, the metabolic reaction between Salmonella bacteria and the carbohydrate releasing acid into the portion of the medium of the reaction, (2) a pH indicator dye that changes the color of said portion of the plating medium to a first color different from the color of the medium responsive to a change in the pH of said portion of the medium, (3) a first substrate that does not react with Salmonella bacteria but reacts to the enzyme beta-galactosidase to produce a second color in the medium where it is acted upon by the enzyme beta-galactosidase, the second color contrasting with the first color and the color of the medium, (4) a second substrate that does not react with Salmonella bacteria but reacts to the enzyme beta-galactosidase to produce said second color in the medium where it is acted upon by the enzyme beta-galactosidase, the first substrate reacting to the presence of the~~

~~enzyme beta-galactosidase in a significantly shorter time than the second substrate reacts to said enzyme, whereby colonies of said other bacteria contain the second color, and (5) an ingredient for thickening the mixture in sufficient quantity to solidify the mixture~~, thereafter incubating said plating medium for a sufficient period to obtain colonies of bacteria producing one or more of said colors, and examining the plating medium for colonies of said first color.

13. (currently amended) The method of ~~detecting the presence of Salmonella in a sample that is likely to contain Salmonella bacteria and other bacteria, said other bacteria releasing the enzyme beta-galactosidase on reacting with a metabolic source, comprising the steps of~~ claim 12, wherein the carbohydrate is one or more members of the group consisting of 2-d~~D~~eoxy-D-Ribose, xylose, mannitol, dulcitol, sorbitol, L-rhamnose and D-arabitol.

14. (canceled)

15. (currently amended) The method of claim 12, ~~detecting the presence of Salmonella in a sample that is likely to contain Salmonella bacteria and other bacteria said other bacteria releasing the enzyme beta-galactosidase on reacting with a metabolic source, comprising the steps of claim 14~~ wherein the plating medium further comprises ~~includes~~ a chromogenic substrate enhancer.

16. (canceled)

This amendment to the claims were approved by Applicant's representative, Mr. Marshall Burmeister, in a telephone conversation on January 11, 2006.

2. The following is an examiner's statement of reasons for allowance. Applicant has amended the claims to recite a plating medium for the identification of Salmonella (in

contrast to any target bacteria) in a mixed culture, as well as a method of detecting the presence of Salmonella in a mixed culture using this solid medium. Applicant has also amended the claims to recite that the enzyme that reacts with the first and second substrates is beta-galactosidase (an enzyme produced by the non-Salmonella bacteria) and that the first and second substrates are selected from a specific group of named substrates.

3. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rosanne Kosson whose telephone number is 571-272-2923. The examiner can normally be reached on Monday-Friday, 8:30-6:00, with alternate Mondays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jon Weber can be reached on 571-272-0925. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Rosanne Kosson
Examiner, Art Unit 1653

rk/2006-01-04

ROBERT A. WAX
PRIMARY EXAMINER